

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
United States of America

v.

22-CR-00379 (DG)

Ehrenfriede Kauapirura,

Defendant.

-----X

JURY INSTRUCTIONS

December 6, 2023

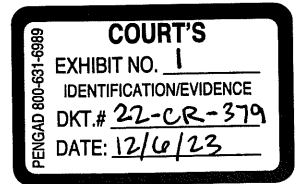


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Now that the evidence has been presented and the parties have concluded their closing arguments, it is my responsibility to instruct you on the law that governs this case.

1. Function of the Jury

Let me remind you that in accordance with your oath as jurors it is your duty to follow the law as I state it. You have the important responsibility to judge the facts. And you alone – not the parties and not the Court – are the judges of the facts.

2. Role of the Court

It is my duty to instruct you on the law. You must accept my instructions and apply them to the facts as you determine them.

It would violate your sworn duty to base a verdict on any other view of the law than the one I will give to you. This means you must follow my instructions regardless of any opinion that you may have as to what the law might or should be, and regardless of whether any party has stated a legal principle differently from how I might state it now.

You must also consider these instructions as a whole during your deliberations and may not single out any instruction as alone stating the law. You will receive a copy of these instructions for use during your deliberations.

3. Court Has No View

I express no view on whether the Defendant is guilty or not guilty. You should not draw any inference or conclusion as to whether the Defendant is guilty or not guilty from anything I may have said or done. You will decide this case solely on the evidence and the law.

To repeat, no statement, ruling, remark, or comment that I have made during the course of the trial is intended to indicate any opinion as to how you should decide the case or to influence you in any way in your determination of the facts. You also should not concern

yourselves with the content of any discussion that I had with the parties at sidebar.

4. Equality of the Parties Before the Court

The prosecution is, as you know, brought in the name of the United States, but that does not entitle the Government to any greater or lesser consideration than the Defendant. The Government and the Defendant are equal before this Court and they are entitled to equal consideration.

5. Burden of Proof

The Government has the burden of proving guilt beyond a reasonable doubt. This burden never shifts to the Defendant. The Defendant does not have to prove her innocence.

6. Reasonable Doubt

I have said that the Government must prove the Defendant guilty beyond a reasonable doubt. So the question, naturally, is what is a reasonable doubt. It is a doubt based upon reason and common sense. It is a doubt that a reasonable person has after carefully weighing all of the evidence. It is a doubt that would cause a reasonable person to hesitate to act in a matter of importance in his or her personal affairs. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

A reasonable doubt, however, is not an impulse or a whim; it is not speculation or suspicion. It is not an excuse to avoid the performance of an unpleasant duty. And it is not sympathy.

In a criminal case, the burden is at all times on the Government to prove guilt beyond a reasonable doubt. The law does not require that the Government prove guilt beyond all possible doubt; proof beyond a reasonable doubt is sufficient to convict. Again, this burden never shifts

to the Defendant, which means that it is always the Government's burden to prove each of the elements of the crimes charged beyond a reasonable doubt.

7. Presumption of Innocence

The Defendant has pled not guilty to the charges in the Indictment. To convict the Defendant, the burden is on the Government to prove the Defendant's guilt on each element of the charges beyond a reasonable doubt. The law presumes the Defendant to be innocent and never imposes upon a defendant in a criminal case the burden or duty of calling any witness or producing any evidence.

In other words, the Defendant starts with a clean slate and is presumed innocent of each charge until such time, if ever, that you as a jury decide unanimously that the Government has proven the Defendant guilty of a given charge beyond a reasonable doubt. The presumption of innocence, unless overcome, is sufficient alone to acquit the Defendant.

8. Defendant's Right Not to Testify

Under our Constitution, a defendant has no obligation to testify or to present any evidence because it is the Government's burden to prove a defendant guilty beyond a reasonable doubt. A defendant is never required to prove that she is innocent.

No inference of any kind may be drawn from the fact that the Defendant did not testify. Indeed, it was the Defendant's constitutional right not to take the witness stand. I instruct you that you must not allow this fact in any way to prejudice the Defendant, and you must not consider it as an indication, admission, evidence, or inference of guilt. Simply put, the fact that the Defendant did not testify must never enter into your deliberations or discussions.

9. Defendant's Right to Represent Herself

The Defendant has chosen to represent herself during this trial. Every defendant in a

criminal case has a constitutional right to be represented by an attorney. But a defendant may also represent herself. The Defendant's decision to represent herself can have no bearing on your verdict, and you may not draw any inference – favorable or unfavorable – based on the fact that she is representing herself.

10. What is Evidence

You have seen and heard evidence in several forms, such as:

- The sworn testimony of witnesses; and
- Documents and other types of exhibits.

11. What is Not Evidence

The following things are not evidence:

- Anything you may have seen or heard outside the courtroom is not evidence.
- The Indictment is not evidence.
- Opening statements and closing arguments are not evidence.
- The questions and objections of the parties are not evidence.

If the objection was sustained, ignore the question and any answer that may have followed. If the objection was overruled, treat the answer like any other answer. You should not attach any special weight to evidence that comes in over objection.

12. Types of Evidence

As I mentioned to you when trial began, there are, generally speaking, two types of evidence. One is direct evidence, which is direct proof of a fact, such as testimony of an eyewitness. The other is circumstantial evidence, which is proof of facts from which you may infer or conclude that other facts exist. You may consider both kinds of evidence.

There is an example we use to explain the difference between direct and circumstantial

evidence. Assume that when you came into the courthouse this morning the sun was shining, and it was a beautiful day. Later, as you were sitting here, someone walks in with an umbrella that is dripping wet. A moment or two later, somebody else walks in with a wet umbrella. You have no direct evidence that it is raining because you have no window, but, on the combination of facts that I have asked you to assume, it would be reasonable and logical for you to infer that it had begun to rain. That is all there is to circumstantial evidence. Using reason and experience, you infer from established facts the existence or the nonexistence of some other fact.

The law makes no distinction between direct and circumstantial evidence, and you may give either or both whatever weight you conclude is warranted.

13. Charts and Summaries

Certain charts and summaries have been admitted into evidence. You should consider these charts and summaries as you would any other evidence.

14. Venue

For each Count, you must consider whether any act in furtherance of the crime charged occurred within the Eastern District of New York, which includes the boroughs of Brooklyn, Queens, and Staten Island, as well as Nassau and Suffolk Counties on Long Island.

Although the Government's burden as to everything else in the case is proof beyond a reasonable doubt, a standard that I have already explained to you, venue need be proven only by the lesser standard of "preponderance of the evidence." To prove something by a preponderance of the evidence means simply to prove that the fact is more likely true than not true. Thus, with respect to each Count, the Government has satisfied its venue obligation if you conclude that it is more likely than not that any act in furtherance of the crime charged occurred within the Eastern District of New York.

If you find that the Government has failed to prove that any act in furtherance of the crime charged in a given Count occurred within this district, then you must find the Defendant not guilty on that Count.

15. Dates Approximate

The Indictment charges that the offenses occurred “on or about” or “in or about” a certain date. The evidence need not establish with certainty the exact dates of the alleged offenses. It is sufficient if the evidence establishes beyond a reasonable doubt that an offense was committed on a date reasonably near the date alleged.

16. Meaning of “And” in the Indictment

You will also see that the Indictment uses the word “and” where my instructions will use the word “or.” This is a result of how the Government formalizes its charges, and it is not a statement of the law. Where my instructions use the word “or,” that “or” is controlling over any other contradictory phrasing in the Indictment.

17. Separate Counts

The Indictment contains seven Counts. They are numbered Count One through Count Seven. A separate crime is charged in each Count.

Count One charges the Defendant with Making and Subscribing False Tax Return.

Count Two charges the Defendant with Assisting Preparation of False Tax Return.

Count Three charges the Defendant with Interference with Due Administration of Internal Revenue Laws.

Each of Counts Four through Seven charges the Defendant with Failure to File Return.

Any verdict you return on a particular Count must be unanimous.

18. Count One: Making and Subscribing False Tax Return

Count One of the Indictment charges the Defendant with making and subscribing a false or fraudulent tax return.

Count One of the Indictment reads, in pertinent part, as follows:

On or about August 29, 2016, within the Eastern District of New York and elsewhere, the defendant EHRENFRIEDE KAUAPIRURA did willfully make and subscribe a false and fraudulent Amended U.S. Individual Income Tax Return, Form 1040X, for calendar year 2015, which was verified by a written declaration that it was made under penalty of perjury and which was filed with the IRS, which tax return KAUAPIRURA did not believe to be true and correct as to one or more material matters, in that the return reported that \$369,257 of federal income tax had been withheld and that a refund of \$253,927 was due, whereas, as KAUAPIRURA then and there well knew and believed, the actual amount of income tax withheld and refund due were substantially lower.

This Count alleges that the Defendant violated Title 26, United States Code, Section 7206(1), which provides:

Any person who . . . [w]illfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter [shall be guilty of a crime].

In order to prove the offense charged in Count One, the Government must prove beyond a reasonable doubt each of the following four elements of the offense:

First, that the Defendant subscribed and filed a tax return;

Second, that the return contained a written declaration that it was made under penalty of perjury;

Third, that the Defendant did not believe the return to be true and correct as to every material matter; and

Fourth, that the Defendant acted willfully.

I will now instruct you on the law applicable to each of these elements.

A. First Element: Defendant Filed a Return

The first element that the Government must prove beyond a reasonable doubt is that the Defendant subscribed and filed a tax return.

A tax return is subscribed to at the time it is signed. A tax return is filed at the time it is delivered to the Internal Revenue Service.

B. Second Element: Return Was Filed Under Penalty of Perjury

The second element that the Government must prove beyond a reasonable doubt is that the return contained a written declaration that it was made under penalty of perjury.

To satisfy this element, the Government must prove that on its face the return contained a statement indicating that the return was made under penalty of perjury.

C. Third Element: Return Was Materially and Knowingly False

The third element that the Government must prove beyond a reasonable doubt is that the Defendant did not believe the return to be true and correct as to every material matter. To prove this element, the Government must prove that the return was materially false and that the Defendant knew that this was so.

An income tax return may be false not only by reason of understatement of income, but also because of an overstatement of lawful deductions or because deductible expenses are mischaracterized on the return.

The false statement in the return must be material. This means that it must be essential to an accurate determination of Defendant's tax liability.

The Government must also prove that the Defendant knew that the statement was false. A person acts knowingly when she acts intentionally and voluntarily, and not because of ignorance, mistake, accident, or carelessness. Whether the Defendant acted knowingly may be

proven by the Defendant's conduct and by all of the facts and circumstances surrounding the case.

D. Fourth Element: Willfulness

The fourth element that the Government must prove beyond a reasonable doubt is that the Defendant acted willfully.

In order for the Government to prove this element, it must establish beyond a reasonable doubt that the Defendant acted voluntarily and intentionally, with the specific intent to make a statement that the Defendant knew was false, when it was the legal duty of the Defendant to answer truthfully, and the Defendant knew it was her legal duty to answer truthfully.

19. Count Two: Assisting Preparation of False Tax Return

Count Two of the Indictment charges the Defendant with aiding and assisting in the preparation and presentation of a false tax return.

Count Two of the Indictment reads, in pertinent part, as follows:

On or about March 6, 2017, within the Eastern District of New York and elsewhere, the defendant EHRENFRIEDE KAUAPIRURA did willfully aid and assist in, and procure, counsel and advise the preparation and presentation to the IRS of, a U.S. Individual Income Tax Return, Form 1040, for calendar year 2016, which was false and fraudulent as to one or more material matters, in that the return reported that \$368,918 of federal income tax had been withheld and that a refund of \$242,845 was due, whereas, as KAUAPIRURA then and there well knew and believed, the actual amount of income tax withheld and refund due were substantially lower.

This Count alleges that the Defendant violated Title 26, United States Code, Section 7206(2), which provides:

Any person who . . . [w]illfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or

fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document [shall be guilty of a crime].

In order to prove the offense charged in Count Two, the Government must prove beyond a reasonable doubt each of the following three elements of the offense:

First, that the Defendant advised or assisted in the preparation of a tax return which was subsequently filed;

Second, that the return was false as to any material matter; and

Third, that the Defendant acted willfully.

I will now instruct you on the law applicable to each of these elements.

A. First Element: Defendant Advised or Assisted in the Preparation of a Return

The first element that the Government must prove beyond a reasonable doubt is that the Defendant advised or assisted in the preparation of a tax return which was subsequently filed with the Internal Revenue Service.

It is not required that the Government prove that the Defendant actually prepared or signed the return in order to prove that she aided in its preparation. Proof that the Defendant knowingly provided false information or directions with the expectation that the information she provided would be used to file a tax return is sufficient to satisfy this element.

B. Second Element: Return Was False

The second element that the Government must prove beyond a reasonable doubt is that the return was false as to a material matter.

An income tax return may be false not only by reason of understatement of income, but also because of an overstatement of lawful deductions or because deductible expenses are mischaracterized on the return.

The false statement in the return must be material. This means that it must be essential to

an accurate determination of Defendant's tax liability.

C. Third Element: Willfulness

The third element that the Government must prove beyond a reasonable doubt is that the Defendant acted willfully.

In order for the Government to prove this element, it must establish beyond a reasonable doubt that the Defendant acted voluntarily and intentionally, with the specific intent to aid and assist in the filing of a false tax return, when it was the legal duty of the Defendant not to do so, and the Defendant knew it was her legal duty not to do so.

20. Count Three: Interference with Due Administration of Internal Revenue Laws

Count Three of the Indictment charges the Defendant with corrupt interference with due administration of internal revenue laws.

Count Three of the Indictment reads, in pertinent part, as follows:

In or about and between July 2017 and May 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant EHRENFRIEDE KAUAPIRURA, knowing of and reasonably foreseeing an IRS collections proceeding (the "Proceeding"), did knowingly, intentionally and corruptly obstruct and impede, and endeavor to obstruct and impede, the due administration of the internal revenue laws, to wit: the Proceeding, by committing and causing to be committed one or more acts having a nexus to the collections proceeding, to wit: transferring money to bank accounts not held in her own name and attempting to pay her tax obligations with a fraudulent check.

This Count alleges that the Defendant violated Title 26, United States Code, Section 7212(a), which, in pertinent part, provides:

Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or

impede, the due administration of this title, [shall be guilty of a crime].

In order to prove the offense charged in Count Three, the Government must prove beyond a reasonable doubt each of the following two elements of the offense:

First, that the Defendant acted corruptly; and

Second, that the Defendant acted with the intent to impede or obstruct the due administration of the internal revenue laws.

I will now instruct you on the law applicable to each of these elements.

A. First Element: Corrupt Endeavor

The first element that the Government must prove beyond a reasonable doubt is that the Defendant acted corruptly.

To act corruptly means to act with the intent to secure an unlawful advantage or benefit either for oneself or for another.

B. Second Element: Intent to Impede or Interfere

The second element that the Government must prove beyond a reasonable doubt is that the Defendant acted with the intent to impede or obstruct the due administration of the internal revenue laws.

There must be a connection between the Defendant's conduct and a particular administrative proceeding, such as an investigation, an audit, or other targeted administrative action. The types of administrative actions do not include routine, day-to-day work carried out in the ordinary course by the IRS, such as the review of tax returns.

The Government must also show that the proceeding was pending at the time the Defendant engaged in the obstructive conduct or, at the least, that the proceeding was reasonably foreseeable by the Defendant at that time.

21. Counts Four Through Seven: Failure to File Return

Counts Four Through Seven of the Indictment charge the Defendant with failing to file tax returns for the years 2017, 2018, 2019, and 2020, respectively.

Counts Four through Seven of the Indictment read, in pertinent part, as follows:

On or about the dates listed below, within the Eastern District of New York and elsewhere, the defendant EHRENFRIEDE KAUAPIRURA did knowingly and willfully fail to make and file with the IRS a Form 1040 for the calendar years listed below, whereas, as KAUAPIRURA then and there well knew and believed, she had received gross income in each of the calendar years in the approximate amounts listed below, and by reason of such gross income was required by law, following the close of each calendar year, to make and file a Form 1040 with the IRS by the due dates listed below, stating specifically the items of her gross income and any deductions and credits to which she was entitled:

There is a chart contained in the Indictment that is set forth below and that I will describe to you now.

COUNT	TAX YEAR	DUE DATE	GROSS INCOME
FOUR	2017	October 15, 2018	\$49,966
FIVE	2018	April 15, 2019	\$57,171
SIX	2019	July 15, 2020	\$74,968
SEVEN	2020	May 17, 2021	\$72,167

The chart sets forth for Count Four: a tax year of 2017, a due date of October 15, 2018, and gross income of \$49,966; for Count Five: a tax year of 2018, a due date of April 15, 2019, and gross income of \$57,171; for Count Six: a tax year of 2019, a due date of July 15, 2020, and gross income of \$74,968; and for Count Seven: a tax year of 2020, a due date of May 17, 2021, and gross income of \$72,167.

Each of these Counts alleges a violation of Title 26, United States Code, Section 7203,

which, in pertinent part, provides:

Any person . . . required by this title or by regulations made under authority thereof to make a return . . . who willfully fails to . . . make such return . . . at the time or times required by law or regulations, [shall be guilty of a crime].

In order to prove the offense charged in each of Counts Four through Seven, the Government must prove beyond a reasonable doubt each of the following three elements of the offense:

First, that the Defendant was required to file an income tax return for the tax year in question;

Second, that the Defendant failed to file an income tax return for the tax year in question; and

Third, that the Defendant's failure to file an income tax return for the tax year in question was knowing and willful.

I will now instruct you on the law applicable to each of these elements.

A. First Element: Requirement That a Return Be Filed

The first element that the Government must establish beyond a reasonable doubt is that the Defendant was required to file an income tax return for the tax year in question.

The law of the United States required that anyone having a gross income of \$23,300 or more during tax year 2017, \$26,600 or more during tax year 2018, \$27,000 or more during tax year 2019, and \$27,400 or more during tax year 2020 was required to make and file an income tax return, regardless of whether a tax was due for that year. Therefore, in order for the Government to satisfy this first element, it must establish, beyond a reasonable doubt, that the Defendant's gross income for the calendar year at issue for the particular Count you are considering was equal to or greater than the amount of gross income previously mentioned.

B. Second Element: Failure to File

The second element that the Government must establish beyond a reasonable doubt is

that the Defendant failed to file an income tax return for the tax year in question.

If the Defendant was required by law to make an income tax return, she would have been obligated to file a return for the 2017 tax year by October 15, 2018; for the 2018 tax year by April 15, 2019; for the 2019 tax year by July 15, 2020; and for the 2020 tax year by May 17, 2021. Therefore, in order to satisfy this second element, the Government must prove beyond a reasonable doubt that the Defendant failed to file her income tax return on or before the date at issue for the particular Count you are considering.

C. Third Element: Willfulness

The third element that the Government must prove beyond a reasonable doubt is that the Defendant acted knowingly and willfully.

An act is done knowingly if it is done purposely and deliberately and not because of mistake, accident, negligence, or other innocent reason. An act – here we are really speaking about a failure to act – is done willfully if it is a voluntary and intentional violation of a known legal duty.

Therefore, if the Defendant knew she was required to file a tax return by the due date of the year in question for the particular Count you are considering and intentionally failed to do so, with the purpose of evading her duty under the tax laws and not as a result of accident or negligence, then she would have willfully failed to file a tax return.

There is no necessity that the Government prove that the Defendant had the intention to defraud or evade the payment of any taxes. The Defendant's knowing failure to file a return, with the intention of avoiding the legal duty that she file constitutes the crime charged.

A defendant does not act willfully if she believes in good faith that her actions comply with the law. Therefore, if the Defendant actually believed that what she was doing was in

accord with the tax statutes, and that she was not required to file a tax return, she cannot be said to have had the criminal intent to willfully fail to file a return. Thus, if you find that the Defendant honestly believed that she was not required to file a return, even if that belief was unreasonable or irrational, then you should find her not guilty. However, you may consider whether the Defendant's belief was actually reasonable as a factor in deciding whether she held that belief in good faith.

Neither the Defendant's disagreement with the law nor her own belief that the law is unconstitutional, no matter how earnestly that belief is held, constitutes a defense of good faith. It is the duty of all citizens to obey the law regardless of whether they agree with it.

22. Good Faith

On the topic of good faith, good faith is a complete defense to each of the charges in this case.

The burden of establishing lack of good faith and of establishing criminal intent rests on the Government. If the Defendant actually believed that what she was doing was in accord with the tax statutes, she cannot be said to have had the criminal intent to commit any of the crimes charged in the Indictment. A defendant is under no burden to prove her good faith; rather, the Government must prove bad faith or knowledge of falsity beyond a reasonable doubt.

23. Credibility of Witnesses

In deciding what the facts are in this case, you must consider all of the evidence that has been offered. In doing this, you must decide which testimony to believe and which testimony not to believe. You are the sole judges of credibility of the witnesses and the weight their testimony deserves. In deciding whether and to what extent to believe a witness's testimony,

you may take into account any number of factors, including the following:

- the witness's opportunity to see, hear, and know about the events he or she described;
- the witness's ability to recall and describe those things;
- the witness's manner in testifying – whether the witness was candid and forthright or whether the witness seemed as if he or she was hiding something, being evasive, or suspect in some way;
- how the witness's testimony on direct examination compared with how the witness testified on cross-examination;
- whether the witness had any possible bias, any relationship to a party, any motive to testify falsely, or any possible interest in the outcome of the trial; and
- whether the witness's testimony was contradicted by his or her other testimony, by what that witness said or did on a prior occasion, by the testimony of other witnesses, or by other evidence.

If you find that any witness has willfully testified falsely as to any material matter, you have the right to reject the testimony of that witness in its entirety. On the other hand, even if you find that a witness has testified falsely or inaccurately about one matter, you may reject as false or inaccurate that portion of his or her testimony and accept as true any other portion of his or her testimony.

24. Law Enforcement Witnesses

You heard the testimony of law enforcement officials. The fact that a witness may be employed as a law enforcement official does not mean that his or her testimony is necessarily deserving of more or less consideration or greater or lesser weight than that of any other witness. You should evaluate such testimony in the same manner as you would the testimony of any other witness.

25. Permissible Inferences from Evidence

The parties in summing up have asked you to draw certain inferences from the evidence

in the case. Any inference you draw must be reasonably based on the evidence, and you may infer only such facts that your reason and common sense lead you to believe follow from the evidence. You are not to engage in speculation based on matters not in evidence.

26. Bias

I remind you that each of you has undertaken a solemn obligation, a sworn obligation, to decide this case solely on the evidence. You must carefully and impartially consider the evidence, follow the law as I state it, and reach a just verdict, regardless of the consequences. You are to perform this task with complete fairness and impartiality, and without bias, prejudice, or sympathy for or against the Government or Defendant.

27. Punishment

The question of possible punishment of the Defendant is of no concern to the jury and should not enter into or influence your deliberations. The duty of imposing a sentence rests exclusively with the Court. Your function is to weigh the evidence in the case and to determine whether or not the Defendant is guilty beyond a reasonable doubt, solely upon the basis of the evidence. Under your oath as jurors, you cannot allow a consideration of the punishment that may be imposed upon the Defendant, if she is convicted, to influence your verdict in any way or to enter into your deliberations at all.

28. Persons Not on Trial

You have heard evidence about the involvement of certain other people in the crimes referred to in the Indictment. That these individuals are not on trial before you is not your concern. You should neither speculate as to the reason these people are not on trial before you nor allow their absence as parties to influence in any way your deliberations in this case.

29. Deliberations

During deliberations, you are entitled to your own opinions, but you should exchange views with your fellow jurors and listen carefully to each other. That is the very nature of the deliberative process. Do not hesitate to change your opinion if you are convinced that another opinion is correct. But each of you must make your own decisions.

30. Unanimity

Any verdict you reach must be unanimous. You must all agree on whether the Government has proven each element of the crime charged in a particular Count beyond a reasonable doubt in order to reach a verdict as to that Count.

31. Jury Charge

In a few minutes, I will supply you with a copy of my instructions. If you refer to these instructions, keep in mind that you should consider them as a whole. Each part of these instructions is important in your deliberations. And, most importantly, do not let my giving you the instructions discourage you from asking for further instructions or clarification should the need arise.

32. Jury Communications with the Court

If you wish during your deliberations to communicate with the Court, for any reason, send a note to me through the Marshal. No member of the jury should ever attempt to communicate with the Court by any means other than a signed writing.

33. Right to See Exhibits and to Have Testimony Read During Deliberations

If, in the course of your deliberations, you have any questions as to what a witness in fact said on any matter, you will have access to that testimony – the Court Reporter will be available to read back to you any portions on which you have questions or you will be provided with a

copy of the relevant portion of the transcript. Please try to be as specific as possible if you make requests for testimony; in other words, if you are interested only in a particular part of a witness's testimony, please indicate that in your note. Bear in mind it may take some time to locate the testimony in the transcripts, so please be patient.

If you want to see any of the exhibits, please send me a note. Depending on what you ask for, you will either come to the courtroom to view it or it will be sent to you in the jury room.

34. Jurors' Notes

During the trial, I permitted the taking of notes by those of you who wished to do so. As I instructed you at the beginning of the trial, your notes are not a substitute for the official court record and you are not to rely on your notes in place of the official record. The Court Reporters took down what the witnesses said, and you will have access to that testimony if you need it during your deliberations. During your deliberations, your notes are to be used solely to assist you. You are not to share them with other jurors.

35. No Communications

I have already spoken to you about not discussing the case with others or conducting independent research about this case. When you retire to deliberate, you may begin discussing the case with your fellow jurors. However, you may only deliberate when all of you are together. And, you still cannot discuss the case with anyone other than your fellow jurors until the case is over and you are discharged as jurors; during your deliberations, you must not communicate with anyone else about this case by any means – including in person, by phone, by video, by email, by text, through social media, or by any other means.

You should not consult dictionaries or other reference materials, search the Internet, look to websites or blogs, or use any other tool – electronic or otherwise – to obtain information about

this case or to help you in your decisions as jurors. It is very important that your decisions be made solely on the basis of the evidence presented in the courtroom in this case.

36. Selecting a Foreperson

When you go to the jury room to begin your deliberations, you should first select someone to be the foreperson. The foreperson will be responsible for signing all communications to the Court and for handing them to the Marshal during your deliberations.

37. Verdict Form

You will receive a verdict form to fill out. It is a two-page form. When you are ready to report your verdict, check the verdict form carefully to make sure that it accurately reflects the jury's verdict, and bring it to the courtroom when summoned by the Court. Please make sure that the verdict form is dated and signed by the foreperson.

38. Not to Reveal Status

Bear in mind that you are not to reveal to any person – not even to me – how the jury stands numerically on the question of whether the Defendant is guilty or not guilty, until after you have reached a unanimous verdict. At that time, you should send a note to me saying, “We have reached our verdict.” Do not indicate in your note what your verdict is. When you send a note to me saying “We have reached our verdict,” you will be brought to the courtroom and the Clerk will take your verdict.

39. Oath

Members of the jury, your oath sums up your duty – and that is, that you will well and truly try this case and render a true verdict according to the evidence presented to you in court, and according to the law as I have just instructed you.

Members of the jury, you will soon begin your deliberations. But first I will meet briefly with the parties at sidebar. Please remain in the jury box, without speaking to each other, while I speak to the parties.

40. Alternate Jurors

At this time, Jurors 1 through 12 will begin deliberations.

I am going to ask that the alternate jurors remain here in the courthouse during deliberations. After Jurors 1 through 12 leave the courtroom to begin deliberations, I will give you more schedule and logistical information.

During the time that the jury is deliberating, alternate jurors should not talk about this case with anyone, even among yourselves. There is always a possibility until a verdict is reached that one or more of you could be called upon to deliberate with the jury, so it is very important that you not talk about the case until a verdict is reached. If anyone attempts to talk to you about the case, please report that to me immediately.